

Daniel Berko – SBN 94912
LAW OFFICE OF DANIEL BERKO
819 Eddy St.
San Francisco, CA 94019
Telephone: (415)771-6174

Attorney for Plaintiff,
TAMARA DOUKAS

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
DIVISION OF SAN FRANCISCO

TAMARA DOUKAS, an individual,

Plaintiff,

vs.

COUNTY OF SAN MATEO, a public
entity, PENINSULA HUMANE
SOCIETY, a private non-profit
organization, DEBI DENARDI, an
individual, KIM HADDAD, an
individual, KKH INC, a private entity,
SPIKE REAL STATE, a private entity and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 08 2336 SI

**DECLARATION OF DANIEL BERKO IN
SUPPORT OF PLAINTIFF'S RESPONSE
TO ORDER TO SHOW CAUSE RE. STAY**

Hearing Judge: Hon. Susan Illston

I, Daniel Berko, declare:

1. I am an attorney licensed to practice law before all the courts of the State of California and attorney of record for Plaintiff Tammy Doukas.
2. I requested that defense counsel stipulate to the filing of a fifth amended complaint in the state court. Denardi's attorneys first stated they would stipulate and then reneged. Because they would not stipulate, my client was forced to incur substantial attorney and staff time to file

DECLARATION OF DANIEL BERKO

1
2 a motion for leave to file a Fifth Amended Complaint. Denardi attorneys then did not oppose
3 the motion. It was granted without opposition on October 7, 2008. Denardi (and all defendants)
4 has until approximately November 19, 2008 to respond. Denardi's "lead attorney" has stated to
5 me opinion that there are "significant problems" with the Fifth Amended Complaint. Since I
6 assume that there must be some logic behind the refusal to stipulate to the filing of the Fifth
7 Amended Complaint beyond harassment and delay for its own sake, I deduce that Denardi is
likely to demurrer or move to strike the Fifth Amended Complaint.

8 3. In the state case, Denardi has obstructed discovery at every turn. No deposition has been
9 taken of any PHS officer, even though depositions of PHS personnel and Denardi have been
10 repeatedly sought by Plaintiff. I first asked for an agreed date for Denardi's deposition on
11 March 14, 2008. Not one day has ever been offered in the next more than seven months.
12 However, I did change focus to seeking a deposition of the "Person/s Most Knowledgeable" on
13 numerous topics of PHS. After lack of cooperation getting agreed dates, I noticed PHS's
14 deposition for September 4, 2008. PHS objected to the date . To this day, PHS has never
15 offered a single day to allow the deposition. Indeed, just this week, PHS's "lead counsel" asked
16 what topics I had in mind for the deposition, even though the September 4, 2008 deposition
listed 22 specific topics of the deposition.

17 4. There is no discovery whatever taken in the state case that is not fully applicable and
18 relevant to this case. Discovery has focused, as one would expect, on August 2, 2006, the day
19 Plaintiff says that her dog was killed against her will by the government officers.

20 5. Ironically, the very San Mateo County Superior Court judge who appointed Denardi
21 under Corporations Code 14502, George Miriam, presided over this case and made rulings
22 without disclosing that Denardi was appointed by him personally. I believe that judge Miriam
23 acted at all times with only the highest integrity. However, notwithstanding that, respectfully, I
24 believe that his making rulings on this case without disclosing that he appointed Denardi helps
25 demonstrate the inadequacy of the state forum.

26 6. It is my intention to file at my earliest possible opportunity, likely by late next week at

1
2 the latest, a motion in the state court asking that the state court action be stayed pending this
3 case and that the San Mateo County Superior court be disqualified from hearing this case. I
4 have nothing but respect for that court, but in light of the facts of this case, I do not believe that
5 court can provide an impartial forum for my client's claims.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct and that this declaration was executed on August 29, 2008, at San
8 Francisco, California.

9
10 _____/s/
11 DANIEL BERKO
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 _____
DECLARATION OF DANIEL BERKO